

Notice of Allowability

Application No.

10/090,238

Examiner

Bao Qun Li

Applicant(s)

XIANG ET AL.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/17/2004.
2. ☒ The allowed claim(s) is/are 1,8-11,16-18 and 36-42.
3. ☒ The drawings filed on 03/02/2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 04/28/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Bao Qun Li

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Talivaldis Cepuritis on September 27, 2004.

The application has been amended as follows:

Claim 1 (current amended). In line 1 after "DNA" deleted 'vaccine' and inserted --- composition --- In line 2 before "carcinoembryonic" deleted "a" In line 3 before "CEA" deleted "a" and inserted --- the ---

Claim 8 (current amended). In line 1 after "DNA" deleted 'vaccine' and inserted --- composition ---

Claim 9 (current amended). In line 1 after "DNA" deleted 'vaccine' and inserted --- composition ---

Claim 10 (current amended). In line 1 after "of" deleted "immunizing" and inserted --- inducing an immune response in --- In line 2 before "carcinoembryonic" deleted "a" in line 3 after "an" deleted "effective" In line 4 after "DNA" deleted "vaccine and inserted --- composition --- In line 4 before "CEA" deleted "a" and inserted --- the --- In line 6 before "CEA" deleted "a" and inserted --- the --- At the end of the line 8th deleted the second "."

Claim 18 (current amended). In line 1 before "is" deleted "vaccine" and inserted --- composition ---

Claim 36 (current amended). In line 1 after "DNA" deleted 'vaccine' and inserted --- composition --- In line 2 before "carcinoembryonic" deleted "a" In line 3 before "CEA" deleted "a" and inserted --- the ---

Claim 37 (current amended). In line 1 after "DNA" deleted 'vaccine' and inserted --- composition ---

Claim 38 (current amended). In line 2 before "carcinoembryonic" deleted "a" In line 4 before "of" deleted "vaccine" and inserted --- composition ---

Art Unit: 1648

Claim 42 (current amended). In line 1 after "the" deleted "vaccine" and inserted --- composition

Claims 1, 8-11, 16-18, 36-42 are allowed.

2. The following is an examiner's statement of reasons for allowance: Applicants filed a declaration under rule 132, which is preservative to overcome the outstanding rejection. Therefore, no prior art prior to the application was filed teaches or suggests an oral DNA composition for inducing an enhanced immune response against cancer cell comprising a bacterial delivery vector carrying two separate DNA plasmids encoding carcinoembryonic antigen (CEA) and CD40 ligand respectively together with a pharmaceutical acceptable carrier.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao Qun Li whose telephone number is 571-272-0904. The examiner can normally be reached on 7:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on 571-272-0902. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bao Qun Li

September 27, 2004


JAMES HOUSEL 10/1/04
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600